REMARKS

Upon entry of this Amendment, claims 9 through 39 are pending. Claims 22, 23, 38, and 39 stand allowed. Claims 9-13, 17-21, 24-30, and 34-37 stand rejected under 35 U.S.C. §102 as anticipated by U.S. Patent 5,910,987 to *Ginter*. Claims 14-16, and 31-33 are objected to as dependent from a rejected claim.

Rejection Under §102

No prior art of record teaches expressly or by implication all of the limitations of each of the independent claims. The rejected independent claims are claims 9, 12, 17, 21, 26, 29, 34, and 37. At least the following limitations recited variously in each of the rejected independent claims are not disclosed or suggested by *Ginter*.

Claims 9, 21, 26, and 37

(1) "receiving ... a first report ... being provided in response to a transaction that provided the digital work ... the transaction conducted in response to a request originated by the content requesting node";

(2) "receiving ... a second report that originated from a content managing node in response to supplying by the content managing node information to validate the request"; and

(3) "comparing ... the value and the transaction identifier"

Claims 12 and 29

(1) "receiving ... a plurality of first reports, each ... being provided in response to a transaction that provided the digital work ... the transaction conducted in response to a respective request originated by the content requesting node";

(2) "receiving ... a plurality of second reports, each ... originating from a content managing node in response to supplying by the content managing node information to validate the respective request";

(3) "identifying ... a particular first report and a particular second report"; and

(4) "comparing ... the respective transaction identifier ... and the respective value".

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<u>Claim 17 and 34</u>

(1)   "receiving ... a first report ... being provided in response to a transaction that provided the digital work ... the transaction conducted in response to a request originated by the third computer system";

(2)   "receiving ... a second report that originated from a fourth computer system in response to supplying by the fourth computer system information for validating the request"; and

(3)   "comparing ... the value and the transaction identifier"

A lack of novelty cannot be established without showing every element of the claim. Withdrawal of the rejections is respectfully requested because no *prima facia* case showing every element of each independent claim has been established by the Examiner.

Applicant encloses FIG. C as an aid in understanding the communication described in *Ginter*. FIG. C is a message sequence diagram showing across the top a rectangle for each entity sending or receiving messages, and showing a list of messages C12-C40 arranged in sequence from a reference time (C12) to a later time (C40). A content creator 102 provides rules (C12) to a rights distributor 106. Support is found at col. 53 lines 36-38. Revised rights are provided (C14) from the rights distributor 106 to the content user 112. Support is found at col. 53 lines 42-51. Content may be provided from the creator 102 to the content user 112 before (C16) and/or after (C26) execution of the method described by FIG. 3 and col. 55 line 47 through col. 56 line 30. Support for when content is received may be found in at col. 14 lines 7-14: "Distribution may be by ... "static" files and/or streams ... used for ... interactive games, ... where restrictions on ... the use of all or portions of <u>communicated</u> information is enforced." (emphasis added). The content user 112 is a computer system having an operator. Support is found at col. 58 lines 27-29. The operator inputs a request for use of particular content. Support is found at col. 55 lines 60-67. (Whether the content has already been received or not is not clear from *Ginter*). The content user 112 determines (C18) whether the request for use is consistent with the revised rules. Support is implied from the description of revised rules sent to content user 112 and the user's input into content user 112. The content user 112 determines (C20) whether each access of the content is to be reported. Support is found at col. 55 line 64 through col. 56

line 7. The content user 112 reports usage (C21) to the rights distributor 106. Support is found at col. 56 lines 8-10. The content user 112 determines (C22) whether the requested use is within a budget (e.g., credit or paid in advance). Support is found at col. 56 lines 21-22. The content user 112 grants (C24) access to the user (i.e., the operator) for the requested use. Support is found at col. 56. lines 29-30.

Information related to usage of content is variously described as a usage report. See col. 53 lines 5, 10, and 54-56. Information is provided (C28) from content user 112 to clearing house 115. Support is found at col. 53 line 54-56. This information may consist entirely of billing information since only billing process 408 is attributed to this function. Support is found at col. 56 lines 19-20. Clearing house 116 provides (C30) a bill to content user 112. Support is found at col. 53 lines 56-58. Content user 112 provides (C32) payment to clearing house 116. Support is found at col. 53 lines 58-60. Clearing house 116 provides (C34) reports to content user 112. Clearing house 116 provides reports and payments to rights distributor 106 (C36) and content creator 102 (C40). Support is found at col. 53 line 60 though col. 54 line 3.

The Examiner has taken the position that rights distributor 106 performs the methods claimed by Applicant. The rights distributor is contrasted with a reconciling node as follows with reference to FIG. B. A rights distributor 106 does not perform the methods claimed by Applicant, at least due to the following differences:

- The rights distributor 106 does not perform "receiving ... a first report ... provided in response to a transaction that provided the digital work".
- The rights distributor 106 does not perform "receiving ... a second report that originated from a content managing node in response to supplying by the content managing node information to validate the request".
- The rights distributor 106 does not perform "comparing ... the value and the transaction identifier".

The rights distributor 106 does not receive a first report that was provided in response to a transaction that provided the digital work. First, as discussed above, information related to usage of content (C21) received by rights distributor 106 is not a first report for two reasons. First, as claimed, the first report is provided in response to a transaction. The transaction is conducted in response to a request. And, the transaction provides the digital work. *Ginter* does not describe such a request as claimed that is directed to a content provider. *Ginter* merely

describes a "request for use" that is directed to processes that are internal to content user 112. These processes are implied to be internal to the content user 112 because only content user 112 has both the "request for use" and the revised rules (C14) to work with. Second, nothing in *Ginter* describes providing a report as a consequence of "a transaction that provided the digital work". In *Ginter* the usage report (C21) seems to be provided as a consequence of the operator's "request to use" content as opposed to a request to a content provider for providing content.

The rights distributor 106 does not receive a second report that originated from a content managing node in response to supplying by the content managing node information to validate the request. As discussed above, a "request for use" is not a "request" that is originated, validated, and results in a transaction as claimed. There is nothing in *Ginter* corresponding to the "request" as claimed. Consequently, there is also nothing in *Ginter* regarding validating a request as claimed; nor information to validate a request as claimed.

In *Ginter*, the clearing house 116 is not a content managing node as claimed at least because it does not supply information to validate a request. The only information supplied by clearing house 116 seems to be reports C32 that are not used on receipt by content user 112 to validate a request as claimed.

The rights distributor 106 does not perform comparing a value and a transaction identifier as claimed. Applicant has searched the voluminous disclosure of *Ginter* and reviewed the context of each usage of the words (and word forms) for "report", "match", and "reconcile". Nothing in *Ginter* reconciles events of the following types:

(a) providing a requested work; with

(b) supplying information to validate the request;

where event (a) triggers a first report for reconciliation, and event (b) triggers a second report for reconciliation.

Instead, *Ginter* seems to reconcile budget and billing events. See col. 33 line 66 through col. 34 line 36.

The Examiner has taken the position that "a first report ... being provided in response to a transaction that provided the digital work" is taught by *Ginter* as "receiving at the VDE Rights Distributor node a first report, the first report tracks the usages of the digital works provided from VDE Content Creator node to VDE Content User node ... (col. 55 line 48 through col. 56 line 16 and FIG. 2)". The Examiner has not quoted the passage from *Ginter* but has instead

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inaccurately summarized the cited passage. The inaccurate summary mischaracterizes the functions described. The cited passage states in pertinent part:

> The "events process" 402 detects things that happen ("events") ...
> The "events" include, for example, a **request to use content** ... For
> example, ... each user request to turn a page of an electronic book
> may be satisfied ("Go") but it may not be necessary to meter, bill
> or budget those requests. ... Other content (for example, searching
> an electronic telephone directory) may require the user to pay a fee
> for each access. "Meter" process 404 keeps track of events, and
> may **report usage** to distributor 106 and/or other appropriate VDE
> participants(s). ... Billing process 406 determines how much to
> charge for events. It records and **reports payment information.**
> Budget process 408 limits how much content usage is permitted. ...
> Budget process 408 records and **reports financial and other**
> **transaction information** associated with such limits. Content
> may be supplied to the user once these processes have been
> successfully performed. (Emphasis added).

Assuming, *arguendo*, that this passage supports the assertion that the report (C21) received at the rights distributor 106 is used by the rights distributor to "track the usages of the digital works provided from a content creator to a content user", tracking usage is not the same function as reporting in response to a transaction that provided the work. On the contrary, "tracking usage" seems to include reporting on events being requests for use of content as opposed to events being providing content.

The Examiner has taken the position that "receiving at the reconciling node via the network a second report that originated from a content managing node in response to supplying to the content managing node information to validate the request" is taught by *Ginter* as "receiving at the VDE Rights Distributor node a second report that originated from a ... Clearinghouse ... node in response to supplying [reports] by the ... Clearing house node to validate the request".

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The Examiner has mischaracterized *Ginter's* description relative to the "request" as claimed. *Ginter* makes mention of a "request for use" but makes no mention of a request having a transaction conducted in response to the request where the transaction provides a digital work to a content requesting node.

The Examiner has mischaracterized *Ginter's* description relative to validation as claimed. The cited passage does not describe validating a request having a transaction conducted in response to the request where the transaction provides a digital work. The content user 112 seems to perform processes discussed above with reference to C18, C20, C22, and C24 that may in some ways be similar to validating; however, these processes do not operate on a "request" as functionally described in the claim limitations.

The Examiner has mischaracterized *Ginter's* description relative to "information" "supplied to validate" a request having a transaction conducted in response to the request where the transaction provides a digital work as claimed. The cited passage does not describe information used to validate. Reports C34 are not described as used for validating. The content user 112 performs processes discussed above with reference to C18, C20, C22, and C24 that may in some ways be similar to validating; however, these processes do not use information received from clearing house 116. Therefore, clearing house 116 is not described as supplying information as claimed.

The Examiner has mischaracterized *Ginter's* description relative to "a second report ... originating ... in response to supplying information" as claimed. The cited passage does not describe reporting the event of supplying information for validation. On the contrary, the reports provided by clearing house 116 (C30, C34, C36, and C40 are described merely as usage reports and payments.

The Examiner has mischaracterized *Ginter's* description relative to "content managing" as claimed. Clearing house 116 is not a content managing node at least because it is not described as performing a recited function of content management: supplying information to validate a request as claimed.

The Examiner has mischaracterized *Ginter's* description relative to "receiving a second report". No report received by rights distributor 106 from clearing house 116 can be properly interpreted as a "second report" as claimed because, as discussed above, the second report originates from a content managing node (not shown by clearing house 116), is originated in

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response to supplying (not shown by report C36) information to validate (not shown by report C34) a request having a transaction conducted in response to the request (not shown by a request to use content).

Assuming, *arguendo*, that a request for use of content is validated by content user 112 according to the processes discussed with reference to C18, C20, C22, and C24; clearing house 116 is not described as having supplied information to validate the request for use. Specifically, reports C34 are not described as used for validating a request. Furthermore, reports C36 provided by clearing house 116 to rights distributor 106 are not described as indicating that reports C34 have or have not been provided. In other words, even if content user 112 is understood to perform validation of a request for use in accordance with reports from clearing house 116, reports C36 still fail to correspond to "a second report that originated ... in response to supplying ... information to validate the request" as claimed.
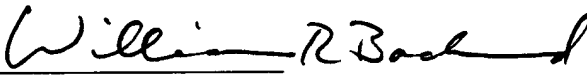
Conclusion

Reconsideration is respectfully requested. Applicant believes the case is in condition for allowance and respectfully requests withdrawal of the rejections and allowance of the pending claims.

The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

Respectfully submitted,

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